

**AMENDMENT TO H.R. 5005**  
**OFFERED BY MR. YOUNG OF ALASKA**

Page 6, line 21, insert “and” after the semicolon.

Page 6, line 23, strike “; and” and insert a period.

Page 7, strike lines 1 through 3.

Page 7, line 10, insert “and” after the semicolon.

Page 7, line 11, strike the semicolon and insert a period.

Page 7, strike lines 12 through 17.

Page 8, after line 16, insert the following:

1       (c) ISSUANCE OF REGULATIONS.—The issuance of  
2 regulations by the Secretary shall be governed by the pro-  
3 visions of chapter 5 of title 5, United States Code, except  
4 as specifically provided in this Act, in laws granting regu-  
5 latory authorities that are transferred by this Act, and in  
6 laws enacted after the date of enactment of this Act.

Page 9, strike lines 17 through 21.

Page 22, strike lines 20 through 24.

Page 23, line 1, insert “subject to section 404,”  
after “(5)”.

Page 23, line 3, strike “of the Secretary of Transportation, and”

Page 23, line 4, strike the comma at the end.

Page 23, line 6, insert “subject to section 405,” after “(6)”.

Page 24, after line 6, insert the following (and conform the table of contents of the bill accordingly):

1   **SEC. 404. FUNCTIONS OF TRANSPORTATION SECURITY AD-**  
2                                   **MINISTRATION.**

3           (a) IN GENERAL.—The functions of the Transpor-  
4   tation Security Administration of the Department of  
5   Transportation transferred under section 402(5) shall be  
6   carried out by an Assistant Secretary of the Department  
7   appointed by the President under section 103(a)(7). The  
8   Assistant Secretary shall be known as the Assistant Sec-  
9   retary for Transportation Security (in this section referred  
10   to as the “Assistant Secretary”).

11          (b) REPORTING.—The Assistant Secretary shall re-  
12   port to the Under Secretary for Border and Transpor-  
13   tation Security.

14          (c) CONSULTATION WITH FEDERAL AVIATION AD-  
15   MINISTRATION.—The Secretary and other officials in the  
16   Department shall consult with the Administrator of the  
17   Federal Aviation Administration before taking any action

1 that might affect aviation safety, air carrier operations,  
2 aircraft airworthiness, or the use of airspace. The Sec-  
3 retary shall establish a liaison office within the Depart-  
4 ment for the purpose of consulting with the Administrator  
5 of the Federal Aviation Administration.

6 (d) DATE OF TRANSFER OF FUNCTIONS.—Notwith-  
7 standing section 802 or any other provision of this Act,  
8 the transfer relating to the Transportation Security Ad-  
9 ministration under section 402(5) shall not occur until  
10 after—

11 (1) the Secretary, Assistant Secretary, and the  
12 Under Secretary for Border and Transportation Se-  
13 curity have each taken office;

14 (2) the Secretary of Transportation certifies  
15 that explosive detection systems are deployed at all  
16 United States airports described in section 44903(c)  
17 of title 49, United States Code, and that these sys-  
18 tems are screening all checked baggage; and

19 (3) the Secretary of Transportation certifies  
20 that a sufficient number of Federal screeners, Fed-  
21 eral Security Managers, Federal security personnel,  
22 and Federal law enforcement officers have been de-  
23 ployed at all airports in the United States at which  
24 screening is required under section 44901 of title  
25 49, United States Code, other than airports partici-

1       pating in the pilot program under section 44919 of  
2       such title.

3       (e) TSA AND OTHER SECURITY-RELATED PRO-  
4       GRAMS.—

5           (1) TSA PROGRAMS.—For purposes of the  
6       transfer under section 402(5), the Transportation  
7       Security Administration shall be considered to con-  
8       sist of those programs for which funds are specifi-  
9       cally requested for the Transportation Security Ad-  
10      ministration in the President's budget submission to  
11      Congress for fiscal year 2003.

12          (2) OTHER SECURITY-RELATED PROGRAMS.—  
13      Other security-related programs within the Depart-  
14      ment of Transportation may not be transferred to  
15      the Department of Homeland Security before the  
16      last day of a 30-day period of continuous session of  
17      Congress following the date of transmittal by the  
18      President to Congress of a notice of the President's  
19      intent to make such a transfer. For purposes of the  
20      preceding sentence, continuity of a session of Con-  
21      gress is broken only by an adjournment sine die, and  
22      there shall be excluded from the computation of such  
23      30-day period any day during which either House of  
24      Congress is not in session during an adjournment of  
25      more than 3 days to a day certain.

1 (f) LIMITATIONS ON STATUTORY CONSTRUCTION.—

2 (1) GRANT OF AUTHORITY.—Nothing in this  
3 Act may be construed to vest in the Secretary or any  
4 other official in the Department any authority over  
5 transportation security that is not vested in the  
6 Under Secretary of Transportation for Security, or  
7 in the Secretary of Transportation under chapter  
8 449 of title 49, United States Code, on the day be-  
9 fore the date of enactment of this Act.

10 (2) OBLIGATION OF AIP FUNDS.—Nothing in  
11 this Act may be construed to authorize the Secretary  
12 or any other official in the Department to obligate  
13 amounts made available under section 48103 of title  
14 49, United States Code.

15 (g) REFERENCES.—References relating to the Under  
16 Secretary of Transportation for Security and the Trans-  
17 portation Security Administration of the Department of  
18 Transportation in statutes, Executive orders, rules, regu-  
19 lations, directives, or delegations of authority that precede  
20 the effective date of the transfer under section 402(5)  
21 shall be deemed to refer, as appropriate, to the Assistant  
22 Secretary and the Department, respectively.

1 **SEC. 405. FUNCTIONS OF ADMINISTRATOR OF GENERAL**  
2 **SERVICES.**

3 (a) OPERATION, MAINTENANCE, AND PROTECTION  
4 OF FEDERAL BUILDINGS AND GROUNDS.—Nothing in  
5 this Act may be construed to affect the functions or au-  
6 thorities of the Administrator of General Services with re-  
7 spect to the operation, maintenance, and protection of  
8 buildings and grounds owned or occupied by the Federal  
9 Government and under the jurisdiction, custody, or control  
10 of the Administrator. Except for the law enforcement and  
11 related security functions transferred under section  
12 402(6), the Administrator shall retain all powers, func-  
13 tions, and authorities vested in the Administrator under  
14 the Federal Property and Administrative Services Act of  
15 1949 (40 U.S.C. 471 et seq.) and other provisions of law  
16 that are necessary for the operation, maintenance, and  
17 protection of such buildings and grounds.

18 (b) COLLECTION OF RENTS AND FEES; FEDERAL  
19 BUILDINGS FUND.—

20 (1) STATUTORY CONSTRUCTION.—Nothing in  
21 this Act may be construed—

22 (A) to direct the transfer of, or affect the  
23 authority of the Administrator of General Serv-  
24 ices to collect, rents and fees, including fees col-  
25 lected for protective services; or

1 (B) to authorize the Secretary or any other  
2 official in the Department to obligate amounts  
3 in the Federal Buildings Fund established by  
4 section 210(f) of the Federal Property and Ad-  
5 ministrative Services Act of 1949 (40 U.S.C.  
6 490(f)).

7 (2) USE OF TRANSFERRED AMOUNTS.—Any  
8 amounts transferred by the Administrator of Gen-  
9 eral Services to the Secretary out of rents and fees  
10 collected by the Administrator shall be used by the  
11 Secretary solely for the protection of buildings or  
12 grounds owned or occupied by the Federal Govern-  
13 ment.

14 **SEC. 406. RETENTION OF COAST GUARD FUNCTIONS.**

15 (a) LIMITATION ON FUNCTIONS OF UNDER SEC-  
16 RETARY.—Notwithstanding any other provision of this  
17 title, the functions of the Under Secretary for Border and  
18 Transportation Security do not include any function that  
19 immediately before this Act takes effect is a function of  
20 the Coast Guard.

21 (b) PRESERVATION OF COAST GUARD FUNCTIONS.—  
22 The functions of the Coast Guard (and of the Secretary  
23 of the Department in which the Coast Guard is operating  
24 with respect to such functions) are not affected by this  
25 title.

1 **SEC. 407. INTERAGENCY SECURITY COMMITTEE.**

2 (a) PURPOSE.—It is the purposes of this section to  
3 enhance the quality and effectiveness of security in and  
4 protection of buildings and facilities in the United States  
5 occupied by Federal employees for nonmilitary activities  
6 (in this section referred to as “Federal facilities”) and to  
7 provide a permanent body to address continuing Govern-  
8 ment-wide security for Federal facilities.

9 (b) ESTABLISHMENT.—There is established within  
10 the executive branch the Interagency Security Committee  
11 (in this section referred to as the “Committee”). The  
12 Committee shall consist of the following members:

13 (1) The Administrator of General Services.

14 (2) Representatives from the following agencies,  
15 appointed by the agency heads:

16 (A) Department of State.

17 (B) Department of the Treasury.

18 (C) Department of Defense.

19 (D) Department of Justice.

20 (E) Department of Homeland Security.

21 (F) Department of the Interior.

22 (G) Department of Agriculture.

23 (H) Department of Commerce.

24 (I) Department of Labor.

25 (J) Department of Health and Human  
26 Services.



1 (K) Department of Housing and Urban  
2 Development.

3 (L) Department of Transportation.

4 (M) Department of Energy.

5 (N) Department of Education.

6 (O) Department of Veterans Affairs.

7 (P) Environmental Protection Agency.

8 (Q) Central Intelligence Agency.

9 (R) Office of Management and Budget.

10 (3) The following individuals or their designees:

11 (A) The Director, United States Marshals  
12 Service.

13 (B) The head of the Federal Protective  
14 Service.

15 (C) The Assistant to the President for Na-  
16 tional Security Affairs.

17 (D) The Director, Security Policy Board.

18 (4) Such other Federal employees as the Presi-  
19 dent shall appoint.

20 (c) CHAIR.—The Committee shall be chaired or co-  
21 chaired by the Administrator of General Services, or the  
22 designee of the Administrator.

23 (d) WORKING GROUPS.—The Committee is author-  
24 ized to establish interagency working groups to perform  
25 such tasks as may be directed by the Committee.

1 (e) CONSULTATION.—The Committee may consult  
2 with other parties, including the Administrative Office of  
3 the United States Courts, to perform its responsibilities  
4 under this section and, at the discretion of the Committee,  
5 such other parties may participate in the working groups.

6 (f) DUTIES AND RESPONSIBILITIES.—The Com-  
7 mittee shall—

8 (1) establish policies for security in and protec-  
9 tion of Federal facilities;

10 (2) develop and evaluate security standards for  
11 Federal facilities, develop a strategy for ensuring  
12 compliance with such standards, and oversee the im-  
13 plementation of appropriate security measures in  
14 Federal facilities; and

15 (3) take such actions as may be necessary to  
16 enhance the quality and effectiveness of security and  
17 protection of Federal facilities, including—

18 (A) encouraging agencies with security re-  
19 sponsibilities to share security-related intel-  
20 ligence in a timely and cooperative manner;

21 (B) assessing technology and information  
22 systems as a means of providing cost-effective  
23 improvements to security in Federal facilities;

24 (C) developing long-term construction  
25 standards for those locations with threat levels

1 or missions that require blast resistant struc-  
2 tures or other specialized security requirements;

3 (D) evaluating standards for the location  
4 of, and special security related to, day care cen-  
5 ters in Federal facilities; and

6 (E) assisting the Administrator of General  
7 Services in developing and maintaining a cen-  
8 tralized security data base of all Federal facili-  
9 ties.

10 (g) AGENCY SUPPORT AND COOPERATION.—

11 (1) ADMINISTRATIVE SUPPORT.—To the extent  
12 permitted by law and subject to the availability of  
13 appropriations, the Administrator of General Serv-  
14 ices, shall provide the Committee such administra-  
15 tive services, funds, facilities, staff, and other sup-  
16 port services as may be necessary for the perform-  
17 ance of its functions under this section.

18 (2) COOPERATION.—Each executive agency and  
19 department shall cooperate and comply with the poli-  
20 cies and recommendations of the Committee issued  
21 pursuant to this section, except to the extent that  
22 the Director of Central Intelligence determines that  
23 compliance would jeopardize intelligence sources and  
24 methods. To the extent permitted by law and subject  
25 to the availability of appropriations, executive agen-

1       cies and departments shall provide such support as  
2       may be necessary to enable the Committee to per-  
3       form its duties and responsibilities under this sec-  
4       tion.

5               (3) COMPLIANCE.—The Administrator of Gen-  
6       eral Services shall be responsible for monitoring  
7       Federal agency compliance with the policies and rec-  
8       ommendations of the Committee.

9       **SEC. 408. ANNUAL ASSESSMENT OF TERRORIST-RELATED**  
10               **THREATS TO PUBLIC TRANSPORTATION.**

11       On an annual basis, the Secretary, in consultation  
12       with the heads of other appropriate Federal departments  
13       and agencies, shall conduct an assessment of terrorist-re-  
14       lated threats to all forms of public transportation, includ-  
15       ing public gathering areas related to public transportation.

Page 24, lines 16 and 17, strike “, major disasters,  
and other emergencies”.

Page 25, line 7, strike “and major disasters”.

Page 25, lines 19 and 20, strike “or major disaster”.

Page 25, line 22, strike “and major disasters”.

Page 26, strike lines 3 through 5 and insert the following:

1 (6) in consultation with the Director of the  
2 Federal Emergency Management Agency, consoli-  
3 dating existing Federal Government emergency re-  
4 sponse plans for terrorist attacks into the Federal  
5 Response Plan referred to in section 506(b); and

Page 26, strike lines 14 through 17 (and redesignate subsequent paragraphs accordingly).

Page 30, after line 9, insert the following:

6 **SEC. 506. ROLE OF FEDERAL EMERGENCY MANAGEMENT**  
7 **AGENCY.**

8 (a) IN GENERAL.—The functions of the Federal  
9 Emergency Management Agency include, but are not lim-  
10 ited to, the following:

11 (1) All functions and authorities prescribed by  
12 the Robert T. Stafford Disaster Relief and Emer-  
13 gency Assistance Act (42 U.S.C. 5121 et seq.).

14 (2) Carrying out its mission to reduce the loss  
15 of life and property and protect the Nation from all  
16 hazards by leading and supporting the Nation in a  
17 comprehensive, risk-based emergency management  
18 program—

19 (A) of mitigation, by taking sustained ac-  
20 tions to reduce or eliminate long-term risk to

1 people and property from hazards and their ef-  
2 fects;

3 (B) of preparedness, by building the emer-  
4 gency management profession to prepare effec-  
5 tively for, mitigate against, respond to, and re-  
6 cover from any hazard by planning, training,  
7 and exercising;

8 (C) of response, by conducting emergency  
9 operations to save lives and property by posi-  
10 tioning emergency equipment and supplies,  
11 evacuating potential victims, providing food,  
12 water, shelter, and medical care to those in  
13 need, and restoring critical public services;

14 (D) of recovery, by rebuilding communities  
15 so individuals, businesses, and governments can  
16 function on their own, return to normal life,  
17 and protect against future hazards; and

18 (E) of increased efficiencies, by coordi-  
19 nating efforts relating to preparedness and re-  
20 sponse activities to maximize efficiencies.

21 (b) FEDERAL RESPONSE PLAN.—

22 (1) ROLE OF FEMA.—Notwithstanding any  
23 other provision of this Act, the Federal Emergency  
24 Management Agency shall remain the lead agency  
25 for the Federal Response Plan established under Ex-

1       ecutive Order 12148 (44 Fed. Reg. 43239) and Ex-  
2       ecutive Order 12656 (53 Fed. Reg. 47491).

3           (2) REVISION OF RESPONSE PLAN.—Not later  
4       than 60 days after the date of enactment of this  
5       Act, the Director of the Federal Emergency Man-  
6       agement Agency shall revise the Federal Response  
7       Plan to reflect the establishment of and incorporate  
8       the Department.

9           (3) MEMORANDUM OF UNDERSTANDING.—Not  
10      later than 60 days after the date of enactment of  
11      this Act, the Secretary and the Director of the Fed-  
12      eral Emergency Management Agency shall adopt a  
13      memorandum of understanding to address the roles  
14      and responsibilities of their respective agencies  
15      under this title.

Page 31, at the beginning of line 23, insert “(a) IN  
GENERAL.—”.

Page 32, strike lines 3 through 6 (and redesignate  
subsequent paragraphs accordingly).

Page 32, strike lines 13 through 15 and insert the  
following:

16           (2) subject to subsection (b), directing and su-  
17      pervising grant programs of the Federal Government

1 for State, local, and tribal government emergency re-  
2 sponse providers; and

Page 32, after line 19, insert the following:

3 (b) LIMITATION.—Subsection (a)(2) shall not be con-  
4 strued to affect any grant program carried out by the Di-  
5 rector of the Federal Emergency Management Agency; ex-  
6 cept that the Director shall coordinate with the Secretary  
7 in making grants relating to emergency response pro-  
8 viders.

Page 37, strike line 16 and all that follows through  
line 14 on page 39 and insert the following:

9 (d) DEPARTMENT HEADQUARTERS.—

10 (1) IN GENERAL.—Subject to the requirements  
11 of the Public Buildings Act of 1959 (40 U.S.C. 601  
12 et seq.), the Administrator of General Services shall  
13 construct a public building to serve as the head-  
14 quarters for the Department.

15 (2) LOCATION AND CONSTRUCTION STAND-  
16 ARDS.—The headquarters facility shall be con-  
17 structed to such standards and specifications and at  
18 such a location as the Administrator of General  
19 Services decides. In selecting a site for the head-  
20 quarters facility, the Administrator shall give pref-  
21 erence to parcels of land that are federally owned.



1           (3) SCORING OF EXPENDITURES, OBLIGATIONS,  
2           AND APPROPRIATIONS.—Notwithstanding any provi-  
3           sion of the Congressional Budget Act of 1974 (2  
4           U.S.C. 621 et seq.), the Balanced Budget and  
5           Emergency Deficit Control Act of 1985 (2 U.S.C.  
6           900 et seq.), or chapter 13 or 15 of title 31, United  
7           States Code, or any other provision of law, any ex-  
8           penditures, obligations, and appropriations made for  
9           the headquarters facility shall be scored on an an-  
10          nual basis.

11          (4) ALTERNATE FINANCING METHODS.—In the  
12          absence of appropriations in fiscal year 2003 for  
13          Federal construction of the headquarters facility—

14                (A) the Administrator of General Services  
15                may construct the facility by lease-purchase or  
16                installment purchase and may use any lease or  
17                installment purchase instrument as a means of  
18                financing the acquisition of a site, if necessary,  
19                and the construction of the facility, either  
20                through commercial financial establishments or  
21                through the Federal Financing Bank;

22                (B) any lease or installment purchase obli-  
23                gation of the Administrator used in financing  
24                the construction of the facility shall be scored,  
25                for borrowing authority or budget authority

1 purposes, only to the extent outlays are made  
2 from the Federal Buildings Fund annually to  
3 amortize such obligations; and

4 (C) if the financing is placed with the Fed-  
5 eral Financing Bank, any loans, promissory  
6 notes, draws, or other disbursements made by  
7 the Bank and secured by the lease rental or in-  
8 stallment contract payments by the Adminis-  
9 trator of General Services shall for budgetary  
10 purposes be treated as a means of financing (i)  
11 the Department, or (ii) the General Services  
12 Administration, but only to the extent outlays  
13 are made from the Federal Buildings Fund an-  
14 nually to amortize such obligations.

15 (5) USE OF HEADQUARTERS FACILITY.—The  
16 Administrator of General Services shall make the  
17 headquarter facility, as well as other Government-  
18 owned or leased facilities, available to the Secretary  
19 pursuant to the Administrator's authorities under  
20 section 210 of the Federal Property and Administra-  
21 tive Services Act of 1949 (40 U.S.C. 490 et seq.)  
22 and there is authorized to be appropriated to the  
23 Secretary such amounts as may be necessary to pay  
24 the annual charges for General Services Administra-  
25 tion furnished space and services.

Page 41, lines 17 and 18, strike “the effective date of this Act” and insert “the date of transmittal of a plan to Congress under section 802(b)”.

Page 41, line 20, strike “The transfer” and insert the following:

1       (a) IN GENERAL.—Subject to subsection (b), the  
2 transfer

Page 41, after line 25, insert the following:

3       (b) ORGANIZATION PLAN.—

4           (1) PLAN TO BE COMPLETED BEFORE TRANS-  
5 FERS OCCUR.—The transfer of an agency, or any of  
6 its functions, to the Department under this Act shall  
7 not occur before the last day of a 60-day period of  
8 continuous session of Congress following the date of  
9 transmittal by the Secretary to Congress of a plan  
10 for the organization of the Department.

11          (2) CONTENTS OF PLAN.—The plan submitted  
12 under paragraph (1) shall include—

13           (A) a designation of which agency in the  
14 Department will be carrying out each of the  
15 functions assigned to the Department;

16           (B) a proposal for funding the Depart-  
17 ment;

1 (C) a designation of the number of employ-  
2 ees that will be employed by the Department;

3 (D) a description of the manner in which  
4 the Department will carry out each function or  
5 service transferred to the Department from an-  
6 other agency; and

7 (E) a designation of the number of em-  
8 ployees who will be performing each function or  
9 service transferred to the Department from an-  
10 other agency.

11 (3) CONGRESSIONAL REVIEW PERIOD.—For  
12 purposes of paragraph (1), continuity of a session of  
13 Congress is broken only by an adjournment sine die,  
14 and there shall be excluded from the computation of  
15 the 60-day period any day during which either  
16 House of Congress is not in session during an ad-  
17 journment of more than 3 days to a day certain.

Page 44, after line 10, insert the following:

18 (f) PROHIBITION ON USE OF TRANSPORTATION  
19 TRUST FUNDS.—

20 (1) IN GENERAL.—Notwithstanding any other  
21 provision of this Act, no funds derived from the  
22 Highway Trust Fund, Airport and Airway Trust  
23 Fund, Inland Waterway Trust Fund, Harbor Main-  
24 tenance Trust Fund, or Oil Spill Liability Trust

1 Fund may be transferred to, made available to, or  
2 obligated by the Secretary or any other official in  
3 the Department.

4 (2) LIMITATION.—This subsection shall not  
5 apply to security-related funds provided to the Fed-  
6 eral Aviation Administration for fiscal years pre-  
7 ceding fiscal year 2003 for (A) operations, (B) facili-  
8 ties and equipment, or (C) research, engineering,  
9 and development.

Page 49, strike line 9 and all that follows through  
page 50, line 3.

At the end of the bill, add the following (and con-  
form the table of contents of the bill accordingly):

10 **SEC. 908. TRANSPORTATION SECURITY.**

11 (a) TRANSPORTATION SECURITY OVERSIGHT  
12 BOARD.—

13 (1) ESTABLISHMENT.—Section 115(a) of title  
14 49, United States Code, is amended by striking “De-  
15 partment of Transportation” and inserting “Depart-  
16 ment of Homeland Security”.

17 (2) MEMBERSHIP.—Section 115(b)(1) of title  
18 49, United States Code, is amended—

19 (A) by striking subparagraph (G);

1 (B) by redesignating subparagraphs (A)  
2 through (F) as subparagraphs (B) through (G),  
3 respectively; and

4 (C) by inserting before subparagraph (B)  
5 (as so redesignated) the following:

6 “(A) The Secretary of Homeland Security,  
7 or the Secretary’s designee.”.

8 (3) CHAIRPERSON.—Section 115(b)(2) of title  
9 49, United States Code, is amended by striking  
10 “Secretary of Transportation” and inserting “Sec-  
11 retary of Homeland Security”.

12 (b) APPROVAL OF AIP GRANT APPLICATIONS FOR  
13 SECURITY ACTIVITIES.—Section 47106 of title 49, United  
14 States Code, is amended by adding at the end the fol-  
15 lowing:

16 “(g) CONSULTATION WITH SECRETARY OF HOME-  
17 LAND SECURITY.—The Secretary shall consult with the  
18 Secretary of Homeland Security before approving an ap-  
19 plication under this subchapter for an airport development  
20 project grant for activities described in section  
21 47102(3)(B)(ii) (relating to security equipment) or section  
22 47102(3)(B)(x) (relating to installation of bulk explosive  
23 detection systems).”.

1 **SEC. 909. TRANSFER OF CERTAIN SECURITY AND LAW EN-**  
2 **FORCEMENT FUNCTIONS AND AUTHORITIES.**

3 (a) AMENDMENT TO PROPERTY ACT.—Section  
4 210(a)(2) of the Federal Property and Administrative  
5 Services Act of 1949 (40 U.S.C. 490(a)(2)) is repealed.

6 (b) LAW ENFORCEMENT AUTHORITY.—The Act of  
7 June 1, 1948 (40 U.S.C. 318–318d; chapter 359; 62 Stat.  
8 281) is amended to read as follows:

9 **“SECTION 1. SHORT TITLE.**

10 “This Act may be cited as the ‘Protection of Public  
11 Property Act’.

12 **“SEC. 2. LAW ENFORCEMENT AUTHORITY OF SECRETARY**  
13 **OF HOMELAND SECURITY FOR PROTECTION**  
14 **OF PUBLIC PROPERTY.**

15 “(a) IN GENERAL.—The Secretary of Homeland Se-  
16 curity (in this Act referred to as the “Secretary”) shall  
17 protect the buildings, grounds, and property that are  
18 owned, occupied, or secured by the Federal Government  
19 (including any agency, instrumentality, or wholly owned  
20 or mixed-ownership corporation thereof) and the persons  
21 on the property.

22 “(b) OFFICERS AND AGENTS.—

23 “(1) DESIGNATION.—The Secretary may des-  
24 ignate employees of the Department of Homeland  
25 Security, including employees transferred to the De-  
26 partment from the Office of the Federal Protective

1 Service of the General Services Administration pur-  
2 suant to the Homeland Security Act of 2002, as offi-  
3 cers and agents for duty in connection with the pro-  
4 tection of property owned or occupied by the Federal  
5 Government and persons on the property, including  
6 duty in areas outside the property to the extent nec-  
7 essary to protect the property and persons on the  
8 property.

9 “(2) POWERS.—While engaged in the perform-  
10 ance of official duties, an officer or agent designated  
11 under this subsection may—

12 “(A) enforce Federal laws and regulations  
13 for the protection of persons and property;

14 “(B) carry firearms;

15 “(C) make arrests without a warrant for  
16 any offense against the United States com-  
17 mitted in the presence of the officer or agent or  
18 for any felony cognizable under the laws of the  
19 United States if the officer or agent has reason-  
20 able grounds to believe that the person to be ar-  
21 rested has committed or is committing a felony;

22 “(D) serve warrants and subpoenas issued  
23 under the authority of the United States; and

24 “(E) conduct investigations, on and off the  
25 property in question, of offenses that may have



1           been committed against property owned or oc-  
2           cupied by the Federal Government or persons  
3           on the property.

4           “(F) carry out such other activities for the  
5           promotion of homeland security as the Sec-  
6           retary may prescribe.

7           “(c) REGULATIONS.—

8           “(1) IN GENERAL.—The Secretary, in consulta-  
9           tion with the Administrator of General Services, may  
10          prescribe regulations necessary for the protection  
11          and administration of property owned or occupied by  
12          the Federal Government and persons on the prop-  
13          erty. The regulations may include reasonable pen-  
14          alties, within the limits prescribed in paragraph (2),  
15          for violations of the regulations. The regulations  
16          shall be posted and remain posted in a conspicuous  
17          place on the property.

18          “(2) PENALTIES.—A person violating a regula-  
19          tion prescribed under this subsection shall be fined  
20          under title 18, United States Code, imprisoned for  
21          not more than 30 days, or both.

22          “(d) DETAILS.—

23          “(1) REQUESTS OF AGENCIES.—On the request  
24          of the head of a Federal agency having charge or  
25          control of property owned or occupied by the Federal

1 Government, the Secretary may detail officers and  
2 agents designated under this section for the protec-  
3 tion of the property and persons on the property.

4 “(2) APPLICABILITY OF REGULATIONS.—The  
5 Secretary may—

6 “(A) extend to property referred to in  
7 paragraph (1) the applicability of regulations  
8 prescribed under this section and enforce the  
9 regulations as provided in this section; or

10 “(B) utilize the authority and regulations  
11 of the requesting agency if agreed to in writing  
12 by the agencies.

13 “(3) FACILITIES AND SERVICES OF OTHER  
14 AGENCIES.—When the Secretary determines it to be  
15 economical and in the public interest, the Secretary  
16 may utilize the facilities and services of Federal,  
17 State, and local law enforcement agencies, with the  
18 consent of the agencies.

19 “(e) AUTHORITY OUTSIDE FEDERAL PROPERTY.—  
20 For the protection of property owned or occupied by the  
21 Federal Government and persons on the property, the Sec-  
22 retary may enter into agreements with Federal agencies  
23 and with State and local governments to obtain authority  
24 for officers and agents designated under this section to  
25 enforce Federal laws and State and local laws concurrently

1 with other Federal law enforcement officers and with  
2 State and local law enforcement officers.

3 “(f) SECRETARY AND ATTORNEY GENERAL AP-  
4 PROVAL.—The powers granted to officers and agents des-  
5 ignated under this section shall be exercised in accordance  
6 with guidelines approved by the Secretary and the Attor-  
7 ney General.

8 “(g) LIMITATION ON STATUTORY CONSTRUCTION.—  
9 Nothing in this section shall be construed to—

10 “(1) preclude or limit the authority of any Fed-  
11 eral law enforcement agency; or

12 “(2) restrict the authority of the Administrator  
13 of General Services to promulgate regulations affect-  
14 ing property under the Administrator’s custody and  
15 control.

16 **“SEC. 3. SPECIAL PAY.**

17 “Without regard to the pay provisions of chapter 51  
18 of title 5, United States Code, and subchapter III of chap-  
19 ter 53 of such title, the Secretary may, in the Secretary’s  
20 sole discretion, fix the rates of basic pay for the positions  
21 occupied by officers and agents designated under this Act  
22 so as to enable the officers and agents to be appropriately  
23 compensated in comparison to personnel performing com-  
24 parable duties in other law enforcement organizations in  
25 the local labor market.”.

1       (c) MAXIMUM AGE FOR ENTRY INTO THE POSITION  
2 OF FEDERAL PROTECTIVE SERVICE OFFICER.—Section  
3 3307 of title 5, United States Code, is amended—

4           (1) in subsection (a) by striking “and (f)” and  
5 inserting “(f), and (g)”; and

6           (2) by adding at the end the following:

7       “(g) The Secretary of Homeland Security may deter-  
8 mine and fix the maximum age limit for an original ap-  
9 pointment to a position as a Federal Protective Service  
10 Officer, as defined by section 8331(29) or 8401(35).”.

11       (d) AMENDMENTS RELATING TO THE CIVIL SERVICE  
12 RETIREMENT SYSTEM.—

13           (1) DEFINITION.—Section 8331 of title 5,  
14 United States Code, is amended—

15           (A) by striking “and” at the end of para-  
16 graph (27);

17           (B) by striking the period at the end of  
18 paragraph (28) and inserting “; and”; and

19           (C) by adding at the end the following:

20       “(29) ‘Federal Protective Service Officer’  
21 means—

22           “(A) an employee occupying a position in  
23 the Department of Homeland Security and des-  
24 ignated as an officer or agency under section  
25 2(b)(1) of the Protection of Public Property

1 Act, the duties of which position are  
2 primarily—

3 “(i) to detect, investigate, apprehend,  
4 arrest, or detain individuals suspected or  
5 convicted of offenses against the criminal  
6 laws of the United States;

7 “(ii) to protect and secure the per-  
8 sonal safety of officials and other employ-  
9 ees of the United States, as well as occu-  
10 pants and visitors on federally controlled  
11 property; and

12 “(iii) to gather, assess, and analyze  
13 information relating to threats, and to re-  
14 spond to threats and attacks, against per-  
15 sons and property of the United States;  
16 and

17 “(B) an employee who is transferred di-  
18 rectly to a supervisory or administrative posi-  
19 tion in the Department of Homeland Security  
20 from a position of Federal Protective Service  
21 Officer (as defined by subparagraph (A)) or law  
22 enforcement officer;

23 any determination as to whether or not an employee  
24 satisfies subparagraph (B) shall, in the case of an  
25 employee occupying a position in the Office of the

1 Federal Protective Service of the General Services  
2 Administration on the date of the enactment of this  
3 paragraph, be made without regard to any require-  
4 ment that the employee have completed a minimum  
5 period of one or more types of service before the  
6 date of transfer.”.

7 (2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOS-  
8 ITS.—Section 8334 of title 5, United States Code, is  
9 amended—

10 (A) in subsection (a)(1), by striking “or  
11 nuclear materials courier,” and inserting “nu-  
12 clear materials courier, or Federal Protective  
13 Service Officer,”; and

14 (B) in subsection (c), by adding after the  
15 item relating to a nuclear materials courier the  
16 following:

“Federal Protective Service Officer ..... 7.5 ..... After the date of the en-  
actment of the Home-  
land Security Act of  
2002.”.

17 (3) COMPUTATION OF ANNUITY FOR CERTAIN  
18 OFFICERS MANDATORILY SEPARATED.—Section  
19 8339 of title 5, United States Code, is amended by  
20 adding at the end the following:

21 “(v) The annuity of a Federal Protective Service Offi-  
22 cer retiring under section 8335(e) is—

1           “(1) 2½ percent of the officer’s average pay  
2           multiplied by so much of his total service, performed  
3           as a Federal Protective Service Officer or law en-  
4           forcement officer, as does not exceed 20 years; plus

5           “(2) 2 percent of the officer’s average pay mul-  
6           tiplied by so much of his total service as exceeds the  
7           number of years of service taken into account under  
8           paragraph (1).”.

9           (4)       IMMEDIATE       RETIREMENT.—Section  
10          8336(c)(1) of title 5, United States Code, is amend-  
11          ed by striking “or nuclear materials courier” and in-  
12          serting “nuclear materials courier, or Federal Pro-  
13          tective Service Officer”.

14          (5) MANDATORY SEPARATION.—

15                (A) IN GENERAL.—Section 8335(b) of title  
16          5, United States Code, is amended—

17                   (i) by striking “or nuclear materials  
18                   courier” and inserting “nuclear materials  
19                   courier, or Federal Protective Service Offi-  
20                   cer (other than one described in subsection  
21                   (e))”; and

22                   (ii) by striking “or courier” and in-  
23                   serting “courier, or Federal Protective  
24                   Service Officer (other than one described  
25                   in subsection (e))”.

1 (B) PROVISIONS RELATING TO CERTAIN  
2 INCUMBENTS.—Section 8335 of title 5, United  
3 States Code, is amended by inserting after sub-  
4 section (d) the following:

5 “(e) A Federal Protective Service Officer who is em-  
6 ployed by the Office of the Federal Protective Service of  
7 the General Services Administration on the date of the en-  
8 actment of this subsection, and who is otherwise eligible  
9 for immediate retirement under section 8336, shall be sep-  
10 arated from the service on the last day of the month in  
11 which such officer becomes 57 years of age or completes  
12 10 years of service as a Federal Protective Service Officer  
13 if then over that age. The Secretary of Homeland Secu-  
14 rity, under such regulations as the Secretary may pre-  
15 scribe, may exempt a Federal Protective Service Officer  
16 having exceptional skills and experience as a Federal Pro-  
17 tective Service Officer from the automatic separation pro-  
18 visions of this subsection until the officer becomes 60  
19 years of age. The Secretary shall notify the officer in writ-  
20 ing of the date of separation at least 60 days before that  
21 date. Action to separate the officer is not effective, without  
22 the consent of the officer, until the last day of the month  
23 in which the 60-day notice expires.”.

24 (e) AMENDMENTS RELATING TO THE FEDERAL EM-  
25 PLOYEES’ RETIREMENT SYSTEM.—



1 (1) DEFINITION.—Section 8401 of title 5,  
2 United States Code, is amended—

3 (A) by striking “and” at the end of para-  
4 graph (33);

5 (B) by striking the period at the end of  
6 paragraph (34) and inserting “; and”; and

7 (C) by adding at the end the following:

8 “(35) ‘Federal Protective Service Officer’ has  
9 the meaning given that term in section 8331(29).”.

10 (2) DEDUCTIONS AND CONTRIBUTIONS.—

11 (A) EMPLOYEE DEDUCTIONS AND CON-  
12 TRIBUTIONS.—Section 8422(a)(3) of title 5,  
13 United States Code, is amended by adding after  
14 the item relating to a nuclear materials courier  
15 the following:

“Federal Protective Service Officer ..... 7.5 ..... After the date of the en-  
actment of the Home-  
land Security Act of  
2002.”.

16 (B) AGENCY CONTRIBUTIONS.—Para-  
17 graphs (1)(B)(i) and (3)(A) of section 8423(a)  
18 of title 5, United States Code, are amended by  
19 inserting “Federal Protective Service Officers,”  
20 after “firefighters,” each place it appears.

21 (3) PROVISIONS RELATING TO COMPUTATION  
22 OF BASIC ANNUITY.—

1 (A) ANNUITY FOR CERTAIN OFFICERS  
2 MANDATORILY SEPARATED.—Section 8415 of  
3 title 5, United States Code, is amended by add-  
4 ing at the end the following:

5 “(1) The annuity of a Federal Protective Service Offi-  
6 cer retiring under section 8425(e) is—

7 “(1) 2½ percent of the officer’s average pay  
8 multiplied by so much of his total service, performed  
9 as a Federal Protective Service Officer or law en-  
10 forcement officer, as does not exceed 20 years; plus

11 “(2) 2 percent of the officer’s average pay mul-  
12 tiplied by so much of his total service as exceeds the  
13 number of years of service taken into account under  
14 paragraph (1).”.

15 (B) TECHNICAL AND CONFORMING AMEND-  
16 MENTS.—

17 (i) INAPPLICABILITY OF 1.1 PERCENT  
18 ACCRUAL RATE.—Section 8415(g)(2) of  
19 title 5, United States Code, is amended by  
20 inserting “Federal Protective Service Offi-  
21 cer,” after “nuclear materials courier,”.

22 (ii) ANNUITIES ON REEMPLOY-  
23 MENT.—Section 8468(b)(1)(A) of title 5,  
24 United States Code, is amended by insert-  
25 ing “and (l)” after “through (g)”.

1           (4) IMMEDIATE RETIREMENT.—Section 8412(d)  
2           of title 5, United States Code, is amended by strik-  
3           ing “or nuclear materials courier” each place it ap-  
4           pears and inserting “nuclear materials courier, or  
5           Federal Protective Service Officer”.

6           (5) MANDATORY SEPARATION.—

7           (A) IN GENERAL.—Section 8425(b) of title  
8           5, United States Code, is amended by inserting  
9           “Federal Protective Service Officer (other than  
10          one described in subsection (e)),” after “law en-  
11          forcement officer,” each place it appears.

12          (B) PROVISIONS RELATING TO CERTAIN  
13          INCUMBENTS.—Section 8425 of title 5, United  
14          States Code, is amended by redesignating sub-  
15          section (e) as subsection (f), and by inserting  
16          after subsection (d) the following:

17          “(e) A Federal Protective Service Officer who is em-  
18          ployed by the Office of the Federal Protective Service of  
19          the General Services Administration on the date of the en-  
20          actment of this subsection, and who is otherwise eligible  
21          for immediate retirement under section 8412, shall be sep-  
22          arated from the service on the last day of the month in  
23          which such officer becomes 57 years of age or completes  
24          10 years of service as a Federal Protective Service Officer  
25          if then over that age. The Secretary of Homeland Secu-

1 rity, under such regulations as the Secretary may pre-  
2 scribe, may exempt a Federal Protective Service Officer  
3 having exceptional skills and experience as a Federal Pro-  
4 tective Service Officer from the automatic separation pro-  
5 visions of this subsection until the officer becomes 60  
6 years of age. The Secretary shall notify the officer in writ-  
7 ing of the date of separation at least 60 days before that  
8 date. Action to separate the officer is not effective, without  
9 the consent of the officer, until the last day of the month  
10 in which the 60-day notice expires.”.

11 (f) PAYMENTS.—

12 (1) IN GENERAL.—The Secretary shall pay into  
13 the Civil Service Retirement and Disability Fund an  
14 amount determined by the Director of the Office of  
15 Personnel Management to be necessary to reimburse  
16 the Fund for any estimated increase in the unfunded  
17 liability of the Fund resulting from the amendments  
18 made by subsection (e).

19 (2) TIMING.—The Secretary shall pay the  
20 amount so determined in 5 equal annual install-  
21 ments with interest computed at the rate used in the  
22 most recent valuation of the Civil Service Retirement  
23 System, with the first payment thereof due by the  
24 end of fiscal year 2003.

25 (g) LAW ENFORCEMENT PAY.—

1           (1) PAY AND BENEFITS UNDER PROVISIONS OF  
2       FEPCA.—A Federal Protective Service Officer (with-  
3       in the meaning of section 8331(29) or 8401(35) of  
4       title 5, United States Code) is entitled to the same  
5       pay and benefits as are provided by sections 403,  
6       404, and 407 of the Federal Employees Pay Com-  
7       parability Act of 1990 (5 U.S.C. 5305 note) to a law  
8       enforcement officer (as defined by section 402 of  
9       such Act).

10          (2) AWARD FOR FOREIGN LANGUAGE CAPABILI-  
11       TIES.—Section 4521 of title 5, United States Code  
12       is amended—

13               (A) by striking “and” at the end of para-  
14       graph (5);

15               (B) by striking the period at the end of  
16       paragraph (6) and inserting “; and”; and

17               (C) by adding at the end the following:

18               “(7) a Federal Protective Service Officer (with-  
19       in the meaning of section 8331(29) or 8401(35)).”.

20          (3) OVERTIME PAY.—Section 5542(a)(4) of title  
21       5, United States Code, is amended by inserting “or  
22       a Federal Protective Service Officer (within the  
23       meaning of section 8331(29) or 8401(35))” after  
24       “law enforcement officer”.

1 (h) LIMITATION.—Notwithstanding the authority of  
2 the Secretary to establish a human resources management  
3 system under section 10001 of title 5, United States Code  
4 (as added by this Act), or any other authority granted to  
5 the Secretary, the Secretary may not reduce the pay or  
6 benefits of a Federal Protective Service Officer, within the  
7 meaning of section 8331(29) or 8401(35) of such title (as  
8 added by this section), below the level provided by such  
9 title.

10 **TITLE X—COAST GUARD FUNC-**  
11 **TIONS RELATING TO DEPART-**  
12 **MENT OF HOMELAND SECU-**  
13 **RITY**

14 **SEC. 1001. UNDER SECRETARY OF THE COAST GUARD.**

15 (a) IN GENERAL.—Title 14, United States Code, is  
16 amended by inserting before section 41 the following:

17 **“§ 40. Under Secretary of the Coast Guard**

18 “(a)(1) There is an Under Secretary of the Coast  
19 Guard appointed from civilian life by the President, by  
20 and with the advice and consent of the Senate. The Under  
21 Secretary of the Coast Guard is the head of the Coast  
22 Guard.

23 “(2) A person may not be appointed as Under Sec-  
24 retary of the Coast Guard within five years after relief

1 from active duty as a commissioned officer of a regular  
2 component of an armed force.

3 “(b) Subject to the authority, direction, and control  
4 of the Secretary of the department in which the Coast  
5 Guard is operating, the Under Secretary of the Coast  
6 Guard is responsible for, and has the authority necessary  
7 to conduct, all affairs of the Coast Guard.

8 “(c) After first informing the Secretary of the depart-  
9 ment in which the Coast Guard is operating, the Under  
10 Secretary of the Coast Guard may make such rec-  
11 ommendations to Congress relating to the Coast Guard  
12 as the Under Secretary considers appropriate.

13 “(d) The Under Secretary of the Coast Guard may  
14 assign such of Under Secretary’s functions, powers, and  
15 duties as the Under Secretary considers appropriate to the  
16 Commandant. Officers of the Coast Guard shall, as di-  
17 rected by the Under Secretary of the Coast Guard, report  
18 on any matter to the Under Secretary of the Coast Guard  
19 or the Commandant.

20 “(e) In addition to the other duties of the Under Sec-  
21 retary of the Coast Guard, the Under Secretary shall be  
22 responsible for acting as the liaison to the Department of  
23 Homeland Security with respect to all Coast Guard func-  
24 tions.

25 “(f) The Under Secretary of the Coast Guard may—

1           “(1) assign, detail, and prescribe the duties of  
2           officers and members of the Coast Guard and civil-  
3           ian personnel of the Coast Guard; and

4           “(2) prescribe regulations to carry out his or  
5           her functions, powers, and duties under law.”.

6           (b) CLERICAL AMENDMENT.—The table of sections  
7           at the beginning of chapter 3 of title 14, United States  
8           Code, is amended by inserting before the item relating to  
9           section 41 the following:

          “40.     Under Secretary of the Coast Guard.”.

10          (c) TRANSFER OF FUNCTIONS.—

11           (1) TRANSFER.—There are transferred to the  
12           Under Secretary of the Coast Guard all functions  
13           that are vested by law, regulation, or Executive  
14           order in the Commandant of the Coast Guard.

15           (2) REFERENCE.—Any reference in any law,  
16           regulation, or Executive order to the Commandant  
17           of the Coast Guard with respect to a function trans-  
18           ferred under paragraph (1) is deemed to refer to the  
19           Under Secretary of the Coast Guard.



1 **SEC. 1002. MAINTENANCE OF ALLOCATIONS OF FUNDING**  
2 **FOR COAST GUARD OPERATION AND MAINTENANCE.**  
3 **NANCE.**

4 (a) IN GENERAL.—Chapter 17 of title 14, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing:

7 **“§ 676. Maintenance of allocations for operation and**  
8 **maintenance**

9 “(a) IN GENERAL.—Of the amount appropriated for  
10 operation and maintenance of the Coast Guard for each  
11 fiscal year, not less than the percentage specified in sub-  
12 section (b) with respect to a purpose shall be obligated  
13 or expended for expenses related to that purpose.

14 “(b) PURPOSES AND PERCENTAGES.—The purposes  
15 and percentages referred to in subsection (a) are, respec-  
16 tively, the following:

17 “(1) For search and rescue, 12 percent.

18 “(2) For drug interdiction, 13 percent.

19 “(3) For fisheries law enforcement, 11 percent.

20 “(4) For interdiction of migrants, 4 percent.

21 “(5) For environmental law enforcement, 8 per-  
22 cent.

23 “(6) For marine safety, 5 percent.”.

24 (b) TECHNICAL CORRECTION; CLERICAL AMEND-  
25 MENT.—Chapter 17 of title 14, United States Code, is  
26 amended—

1           (1) by redesignating the second section 673 (re-  
2           lating to “Small boat station rescue capability”) and  
3           section 674 in order as sections 674 and 675; and  
4           (2) in the table of sections at the beginning of  
5           the chapter by striking the items relating to “Small  
6           boat rescue capability” and “Small boat station clo-  
7           sures” and inserting the following:

“674. Small boat rescue capability.

“675. Small boat station closures.

“676. Maintenance of allocations for operation and maintenance.”.